

1 LEON DAYAN (State Bar No. 153162)  
ABIGAIL V. CARTER\*  
2 RAMYA RAVINDRAN\*  
LANE M. SHADGETT\*  
3 J. ALEXANDER ROWELL\*  
**BREDHOFF & KAISER P.L.L.C.**  
4 805 Fifteenth Street NW, Suite 1000  
Washington, DC 20005  
5 Telephone: (202) 842-2600  
Facsimile: (202) 842-1888  
6 ldayan@bredhoff.com  
acarter@bredhoff.com  
7 rravindran@bredhoff.com  
lshadgett@bredhoff.com  
8 arowell@bredhoff.com  
\*Application *pro hac vice* forthcoming

9 Daniel Feinberg, SBN 135983  
10 Catha Worthman, SBN 230399  
Anne Weis, SBN 336480  
11 **FEINBERG, JACKSON, WORTHMAN  
& WASOW, LLP**  
12 2030 Addison Street, Suite 500  
Berkeley, CA 94704  
13 Tel. (510) 269-7998  
Fax (510) 269-7994  
14 dan@feinbergjackson.com  
catha@feinbergjackson.com  
15 anne@feinbergjackson.com

16 *Attorneys for Plaintiffs*

17 **UNITED STATES DISTRICT COURT**  
18 **NORTHERN DISTRICT OF CALIFORNIA**  
19 **SAN FRANCISCO DIVISION**

20 AMERICAN FEDERATION OF  
21 GOVERNMENT EMPLOYEES, AFL-CIO, et  
al.,

22 Plaintiffs,

23 v.

24 DONALD J. TRUMP, in his official capacity as  
25 President of the United States, et al.,

26 Defendants.  
27  
28

Case No.: 3:25-cv-03070-JD

**DECLARATION OF MARIE OWENS  
POWELL**

**DECLARATION OF MARIE OWENS POWELL**

I, Marie Owens Powell, declare as follows:

1. I am over 18 years of age and competent to give this declaration. This declaration is based on my personal knowledge, information, and belief.

2. I worked for the Environmental Protection Agency ("EPA") for more than 33 years. I retired on March 8, 2025, from my position as an Underground Storage Tank Inspector. In my role, I assessed compliance with the underground storage tank regulations to ensure appropriate equipment and procedures were in place to prevent or immediately detect releases to the environment.

3. I am the President of the American Federation of Government Employees Council 238. I am also a member of American Federation of Government Employees ("AFGE") Local 3631, Philadelphia, PA. I have been a member of AFGE for over twenty years, and Local 3631 has been in place for well over 30 years. EPA employees in Local 3631 protect human health and the environment in the states of Delaware, Maryland, Pennsylvania, Virginia, West Virginia, and the District of Columbia by stopping polluters from polluting, reviewing permits for the regulated communities, responding to environmental disasters and cleaning up the air, water and soil. Neither I nor anybody I have worked with does anything national security related.

4. Council 238 represents a bargaining unit of more than 8,400 civil servants who work for the Environmental Protection Agency. There are thirteen Locals in Council 238 across the country. These employees include attorneys, inspectors, On Scene Coordinators, Remedial Project managers, Toxicologists, Chemists, Public Affairs Specialists, and Permit Writers. These bargaining unit members work across the country in regional offices, laboratories, field offices and headquarters. These employees protect human health and the environment through:

- 1 • Monitoring of air and water quality;
- 2 • Remediation of contaminated lands;
- 3 • Conducting original research to evaluate impacts of human activity on human health and
- 4 the environment;
- 5 • Drafting environmental regulations;
- 6 • Enforcing environmental statutes and regulations;
- 7 • Overseeing State-delegated programs;
- 8 • Managing grants and projects; and
- 9 • Conducting legal review of proposed regulations and enforcement actions.
- 10
- 11

12 On its face, the March 27, 2025 Executive Order titled “Exclusions from Federal Labor  
13 Management Relations Programs” (“Executive Order”) appears to cover all of the workers in  
14 Council 238’s bargaining unit.

15 5. Council 238’s mission is to advocate for and promote the interests of bargaining  
16 unit members in their federal employment, including working for a safe and fair workplace for  
17 all members. As the exclusive bargaining representative of these workers, the Union provides  
18 many services to all bargaining unit members. Core functions of the Union include collective  
19 bargaining with the agency to obtain a fair and reasonable collective bargaining agreement  
20 (“CBA”); filing and negotiating grievances against the agency to enforce the terms and  
21 conditions of the CBA; pursuing arbitrations on behalf of workers to enforce the CBA;  
22 representing employees in EEO matters, including reasonable accommodations, communicating  
23 to elected representatives, and providing other support, guidance, and resources to bargaining  
24 unit employees.  
25  
26  
27  
28

1           6.       The Union also files unfair labor practice charges; bargains with EPA when the  
2 agency issues new policies during the life of the CBA; represents employees in EEO matters,  
3 including reasonable accommodation, harassment and prohibited employment practice matters;  
4 provides training for members; communicates to elected representatives; renders assistance to  
5 employees with employment records issues, such as clarifying veteran's preference standing, and  
6 works closely with management to resolve employee problems.

7  
8           7.       The Executive Order will have an immediate adverse effect on the Union's ability  
9 to provide these services to unit members and to accomplish its mission. The Executive Order  
10 will also have an immediate adverse impact on workers in the bargaining unit.

11  
12           8.       If the Union is no longer the exclusive bargaining representative of the unit, the  
13 Union cannot enforce the CBA against the agency. The CBA, which is effective from June 2024  
14 to June 2028, provides important rights and protections to workers. For instance, the CBA:

- 15           a.       Sets terms and conditions for working hours, overtime, sick leave, holidays, and  
16               paid time off for workers in the unit.
- 17           b.       Imposes safety and health requirements to ensure the welfare of workers in their  
18               place of employment.
- 19           c.       Establishes protections for workers regarding reduction-in-force ("RIF") actions  
20               and procedures.
- 21           d.       Imposes procedures for and limitations on disciplinary and adverse actions against  
22               workers.
- 23           e.       Provides for an Employee Assistance Program for individuals who have problems  
24               associated with alcohol, drug, marital, family, legal, financial, stress, attendance,  
25               and other personal concerns.  
26  
27  
28



- 1 f. Establishes grievance and arbitration procedures for employees and the Union to  
2 resolve disputes with the agency over employment matters.
- 3 g. Provides for official time and office space, which allows bargaining unit  
4 employees to perform union representation activities during certain amounts of  
5 time the employee otherwise would be in a duty status, without loss of pay or  
6 charge to annual leave, and on agency property.
- 7 h. Protects the scientific integrity of employees.

8  
9 Without the Union to represent them and enforce the CBA, the workers will not have the  
10 benefit of those rights and protections going forward. I understand that the agency is directed to  
11 rescind the CBA under the Executive Order.

12  
13 9. In particular, losing the scientific integrity article of the CBA will allow the  
14 Agency to retaliate against scientists whose findings differ from the political aims of the  
15 President. A core value of EPA—that policy follows the science and not vice versa—is under  
16 threat.

17  
18 10. As a result of the Executive Order, pending grievances and arbitrations to  
19 vindicate workers' rights, including under the CBA, will be left unresolved. The matters  
20 currently being discussed as part of the grievance procedure include:

- 21 ● Several overarching grievances regarding telework and return-to-work requirements,  
22 including a grievance to allow for military spouse exemptions to the return to office  
23 requirements.
- 24 ● Several grievances over the termination of employees who were miscategorized as  
25 probationary and the agency's retroactively reclassifying probationary employees.
- 26  
27  
28

- More than 1,100 individual employee grievances filed related to telework or remote work requirements.

11. The Union's activities are funded through members' voluntary dues, many of which are paid through payroll deduction from their pay. Council 238 will not be able to continue to provide the current level of representation, support, and guidance to our bargaining unit employees if payroll dues deductions are stopped under the Executive Order.

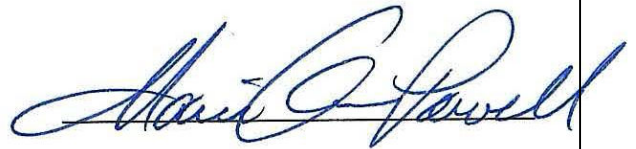
12. Official time is essential to the Union's ability to represent our employees. If Union Officials are not granted official time, they will be forced to meet with employees, draft grievances, EEO complaints, or other essential documents during non-working hours, such as in the evenings and on weekends. Employees will be deprived of any representation in the workplace, and union officials will be unable to work with managers to informally resolve workplace issues.

13. The Executive Order is chilling workers' speech and activity. Because the Order targets federal unions and their employees, current EPA employees are afraid to raise concerns about management, misconduct, or working conditions through the Union. Many employees have expressed fear of filing grievances because they are afraid that doing so puts a target on their back and they will be terminated or put on administrative leave. I also know firsthand that current employees are afraid to criticize the administration or talk about politics, even on personal social media accounts. They are afraid that their work emails and social media use are being monitored.

14. Council 238 has made numerous public statements that are critical of the Administration. Those statements can be found here: <https://afge238.org/news/>. Council 238 recently held a solidarity walk which showed support for the agency's work and federal

1 employees at several work locations during lunch. I was told that Administrator Zeldin was  
2 angry about the solidarity walk and wanted to audit all employee timecards for the day the  
3 solidarity walk took place. After the Executive Order aimed at federal unions, I worry that  
4 Council 238 and union EPA employees will be retaliated against for such statements and  
5 demonstrations going forward.  
6

7  
8 I declare under penalty of perjury under the laws of the United States that the foregoing is  
9 true and correct. Executed April 1, 2025, in Cape May Court House, NJ.  
10

11 

12 Marie Owens Powell  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28